

109TH CONGRESS
1ST SESSION

H. R. 841

To require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2005

Mr. SENSENBRENNER (for himself, Mr. DREIER, Mrs. MILLER of Michigan, Mr. CHABOT, Mr. BARTLETT of Maryland, Mr. PAUL, and Mr. COLE of Oklahoma) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Continuity in Rep-
5 resentation Act of 2005”.

1 **SEC. 2. REQUIRING SPECIAL ELECTIONS TO BE HELD TO**
2 **FILL VACANCIES IN HOUSE IN EXTRAOR-**
3 **DINARY CIRCUMSTANCES.**

4 Section 26 of the Revised Statutes of the United
5 States (2 U.S.C. 8) is amended—

6 (1) by striking “The time” and inserting “(a)
7 IN GENERAL.—Except as provided in subsection (b),
8 the time”; and

9 (2) by adding at the end the following new sub-
10 section:

11 “(b) SPECIAL RULES IN EXTRAORDINARY CIR-
12 CUMSTANCES.—

13 “(1) IN GENERAL.—In extraordinary cir-
14 cumstances, the executive authority of any State in
15 which a vacancy exists in its representation in the
16 House of Representatives shall issue a writ of elec-
17 tion to fill such vacancy by special election.

18 “(2) TIMING OF SPECIAL ELECTION.—A special
19 election held under this subsection to fill a vacancy
20 shall take place not later than 45 days after the
21 Speaker of the House of Representatives announces
22 that the vacancy exists, unless a regularly scheduled
23 general election for the office involved is to be held
24 at any time during the 75-day period which begins
25 on the date of the announcement of the vacancy.

1 “(3) NOMINATIONS BY PARTIES.—If a special
2 election is to be held under this subsection, not later
3 than 10 days after the Speaker announces that the
4 vacancy exists, the political parties of the State that
5 are authorized to nominate candidates by State law
6 may each nominate one candidate to run in the elec-
7 tion.

8 “(4) EXTRAORDINARY CIRCUMSTANCES.—

9 “(A) IN GENERAL.—In this subsection,
10 ‘extraordinary circumstances’ occur when the
11 Speaker of the House of Representatives an-
12 nounces that vacancies in the representation
13 from the States in the House exceed 100.

14 “(B) JUDICIAL REVIEW.—If any action is
15 brought for declaratory or injunctive relief to
16 challenge an announcement made under sub-
17 paragraph (A), the following rules shall apply:

18 “(i) Not later than 2 days after the
19 announcement, the action shall be filed in
20 the United States District Court having ju-
21 risdiction in the district of the Member of
22 the House of Representatives whose seat
23 has been announced to be vacant and shall
24 be heard by a 3-judge court convened pur-

1 suant to section 2284 of title 28, United
2 States Code.

3 “(ii) A copy of the complaint shall be
4 delivered promptly to the Clerk of the
5 House of Representatives.

6 “(iii) A final decision in the action
7 shall be made within 3 days of the filing
8 of such action and shall not be reviewable.

9 “(iv) The executive authority of the
10 State that contains the district of the
11 Member of the House of Representatives
12 whose seat has been announced to be va-
13 cant shall have the right to intervene either
14 in support of or opposition to the position
15 of a party to the case regarding the an-
16 nouncement of such vacancy.

17 “(5) PROTECTING ABILITY OF ABSENT MILI-
18 TARY AND OVERSEAS VOTERS TO PARTICIPATE IN
19 SPECIAL ELECTIONS.—

20 “(A) DEADLINE FOR TRANSMITTAL OF AB-
21 SENTEE BALLOTS.—In conducting a special
22 election held under this subsection to fill a va-
23 cancy in its representation, the State shall en-
24 sure to the greatest extent practicable (includ-
25 ing through the use of electronic means) that

absentee ballots for the election are transmitted to absent uniformed services voters and overseas voters (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act) not later than 15 days after the Speaker of the House of Representatives announces that the vacancy exists.

“(B) PERIOD FOR BALLOT TRANSIT TIME.—Notwithstanding the deadlines referred to in paragraphs (2) and (3), in the case of an individual who is an absent uniformed services voter or an overseas voter (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act), a State shall accept and process any otherwise valid ballot or other election material from the voter so long as the ballot or other material is received by the appropriate State election official not later than 45 days after the State transmits the ballot or other material to the voter.

“(6) RULE OF CONSTRUCTION REGARDING FEDERAL ELECTION LAWS.—Nothing in this subsection may be construed to affect the application to special elections under this subsection of any Federal law governing the administration of elections for Federal

1 office (including any law providing for the enforce-
2 ment of any such law), including, but not limited to,
3 the following:

4 “(A) The Voting Rights Act of 1965 (42
5 U.S.C. 1973 et seq.), as amended.

6 “(B) The Voting Accessibility for the El-
7 derly and Handicapped Act (42 U.S.C. 1973ee
8 et seq.), as amended.

9 “(C) The Uniformed and Overseas Citizens
10 Absentee Voting Act (42 U.S.C. 1973ff et seq.),
11 as amended.

12 “(D) The National Voter Registration Act
13 of 1993 (42 U.S.C. 1973gg et seq.), as amend-
14 ed.

15 “(E) The Americans With Disabilities Act
16 of 1990 (42 U.S.C. 12101 et seq.), as amended.

17 “(F) The Rehabilitation Act of 1973 (29
18 U.S.C. 701 et seq.), as amended.

19 “(G) The Help America Vote Act of 2002
20 (42 U.S.C. 15301 et seq.), as amended.”.

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